

5. In the dispute about the type species of *Bolboceras* Kirby, 1819, Jameson & Howden (BZN 60: 304) stated that 'Curtis (1829, p. 259) unequivocally established the type species of *Bolboceras* Kirby as *Scarabaeus mobilicornis* Fabricius'. Curtis's designation of '*Scarabaeus mobilicornis* Fabricius' was an invalid act because *Scarabaeus mobilicornis* Fabricius was not one of the originally included species. Krell et al. (BZN 60: 307) were, therefore, correct in requesting that the Commission designate *Scarabaeus quadridens* Fabricius, 1781 as the type species of *Bolboceras* Kirby, 1819, since it is one of the three originally included species ('*quadridens* Linn.', *cephus* and *australasiae*) and the species upon which Kirby erected the genus *Bolboceras*.

6. The reference for Kirby (1819) given in Jameson & Howden (BZN 59: 248) is not quite correct. They were, in fact, referring to the article (XXVIII) immediately following the article 'A century of insects.....(XXVII)' given in their references. The correct reference for Kirby (1819) is given below.

In summary, due to the numerous erroneous and misleading statements in the application, as well as in the subsequent comments by Jameson & Howden (BZN 61: 43–45), some of which were already noted by Krell et al. (BZN 60: 303), I seriously question the validity of Case 3097. Therefore, I strongly oppose Jameson & Howden's application to give *Bolboceras* Kirby, 1819 (July) precedence over *Odonteus* Samouelle, 1819 (June) and fully support the alternative proposals to the Commission by Krell et al. (BZN 60: 307).

Additional references

- Kirby W.** 1819. XXVIII. Description of several new species of insects collected in New Holland by Robert Brown. Esq. F.R.S. Lib. Linn. Soc. *Transactions of the Linnean Society of London*, **12**: 454–478.
- Krell, F.-T.** 1991. *Odontebolca* nom. nov. for *Odonteus* Agassiz, [1838] (Osteichthyes, Perciformes). *Bulletin du Muséum national d'Histoire naturelle, section C*, **12**: 351–352.

Comments on the proposed conservation of the specific name of *Macropodus concolor* Ahl, 1937 (Osteichthyes, Perciformes)

(Case 3255; see BZN 60: 206–207; 61: 114–116)

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In response to the comment by Kottelat et al. (BZN 61: 114–116), I and the authors of the application can only hope that the Commission does not follow their recommendation to reject the proposals. The application to conserve the specific name of *Macropodus concolor* Ahl, 1937 was correctly prepared and contained good arguments. We hope that the Commission will approve the proposals published in BZN 60: 207.

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In our review of the genus *Macropodus*, we needed to clarify the nomenclature of the included species. We followed the Code. The Commission has to decide if it sticks to the rules of the Code or accepts the view of the petitioners who try to hide that earlier authors (Vierke, 1986; Paepke, 1994) ignored the following articles and incorrectly applied the nomen oblitum regulations.

Macropodus spechti Schreitmüller, 1936 was described before *M. concolor* Schreitmüller, 1936 or *M. concolor* Ahl, 1937 and is therefore the oldest available name applied to this fish species. All names are based on the same material. Schreitmüller (1936b) himself suggested giving priority to *M. concolor*, which is totally irrelevant to the Code.

Article 23.9 cannot be applied because *Macropodus spechti* was established in 1936 and was therefore used as the valid name after 1899.

The authors stated that *Macropodus spechti* was a forgotten name. The nomen oblitum regulation was only valid between 6 Nov 1961 and 1 Jan 1973 (Article 23.12). The first author who stated that *M. spechti* is a nomen oblitum was Vierke (1986), followed by Paepke (1994). Both ignored the Code in declaring that *M. spechti* is a nomen oblitum. These works are well known to the small German aquarist community interested in this species (to which the petitioners belong) and it is hard to understand why a name should be forgotten if printed in books available for 16 and eight years respectively.

We note that in a very short time span the name *Macropodus spechti* became known and accepted in this small circle and is now taking over. A Google search on 13 March 2004 for *M. spechti* yielded 84 occurrences for the 'new unknown name', against only 467 for the 'old well established name'. This is clear evidence that the change of name is not creating a problem and was widely known and accepted within less than two years.

Comments on the proposed conservation of usage of the specific name *Palaeortyx phasianoides* Milne-Edwards, 1869 (Aves, Galliformes) by the designation of a neotype

(Case 3266: see BZN 60: 211–214; 61: 47–48, 117–119)

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1. In reply to the comment by Mlíkovský (BZN 61: 117–119), we write in support of our application (BZN 60: 211–214) proposing the designation of the scapula (MNHN Av 2895), one of the two syntypes of *Palaeortyx phasianoides* Milne-Edwards, 1869, as the neotype. Mlíkovský (2000), not following Recommendation 74A of the Code, had chosen the other syntype as the lectotype, a humerus (MNHN Av 2896) which had already been excluded from *P. phasianoides* by Ballmann (1969b,